IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Crl.Rev.Pet.No. 2562 of 2007()

CC.1236/02 OF JFCM-II(MOBILE), KOTTAYAM

REVN. PETITIONER: COMPLAINANT

RETNAMMA, W/O.RAVEENDRAN,POKKATHIL,
THURUTHY POST,CHANGANACHERRY.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS: ACCUSED STATE

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1. CHANDRASEKHARAN,U.D.CLERK, OFFICE OF THE
DISTRICT POLICE SUPERINTENDENT, ALPPUZHA.

2. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.NAZAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2562 OF 2007

Dated this the 19th day of November, 2007

O R D E R

The revision petitioner, who is the complainant in C.C.No.1236/02 on the file of JFCM-II(Mobile), Kottayam, challenges the dismissal of the complaint under section 204 (4) Cr.P.C. consequent on the non-payment of batta for initiating steps under sections 82 and 83 Cr.P.C. against the accused. The prosecution is one for an offence punishable under section 138 of the Negotiable Instruments Act, 1881 and the cheque involved is for a sum of Rs.30,000/-.

2. The learned counsel for the revision petitioner submitted that the accused in the case is a U.D.Clerk employed in the office of the Superintendent of Police, Alappuzha and he has been evading service with the aid of the police personnel. It is true that the case is of the year 2002. But then, the learned Magistrate should not have visited the petitioner with the penalty of dismissal of the complaint without giving him a reasonable opportunity of

paying the batta, particularly when the case of the revision petitioner is that the accused in the case who is influential with the police is successfully evading service. Since the impugned order was passed before the accused has entered appearance, notice to the 1st respondent/accused is dispensed with in this revision. The impugned order dated 22.2.07 is set aside and C.C.1236/02 will stand restored to file. The petitioner shall appear before the Magistrate on 14.12.07 without any further notice. By that time, he shall have paid the necessary batta for initiating steps under sections 82 and 83 Cr.P.C.

This Crl.R.P. is disposed of as above.

(V. RAMKUMAR, JUDGE)

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